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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 10 August 2001, at 3 p.m.

Chair: Mr. WEISSBRODT

later: Mr. OGURTSOV
(Vice-Chair)

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The meeting was called to order at 3 p.m.

CONSIDERATION OF DRAFT DECISIONS

Draft decisions under agenda item 3

Draft decision on the issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2001/L.3)

1. Ms. MOTOC explained that the purpose of the draft decision was to request Mr. Joinet to update his interim report on the administration of justice through military tribunals (E/CN.4/Sub.2/2001/WG.1/CRP.3).

2. Ms. HAMPSON said that she wished to join the sponsors of the draft.

3. Draft decision E/CN.4/Sub.2/2001/L.3 was adopted.

Draft decision on discrimination in the criminal justice system (E/CN.4/Sub.2/2001/L.4)

4. Ms. MOTOC explained that the sponsors of draft decision L.4 had agreed to amend the text, with a view to requesting Ms. Zerrougui to submit her final document to the Sub-Commission only. Accordingly the words "to the sessional working group and" should be deleted from the last line of the draft decision.

5. Mr. ALFONSO MARTINEZ, supported by Ms. MOTOC, Mr. YOKOTA and Ms. HAMPSON, said that, while there was no problem with amending the draft decision in that way, he would like a clear indication, in that case, that the document requested from Ms. Zerrougui would be a final "working" document. By qualifying the draft decision in that way, the Sub-Commission would retain the possibility, if necessary, of taking the process one stage further and asking the Commission to carry out a study on the issue of discrimination in the criminal justice system, in other words, to make a preliminary report. By adding the term "working" before "document", it would be clearly established that the document in question would constitute the end of a stage and not of the entire process.

6. Mr. JOINET said that, if the Sub-Commission were to stick to its rules, it would have to respect the sequence provided for the various documents which it produced. Normally, a "preliminary report" followed a "preparatory document". It would therefore be necessary, at the current stage, to request a "preliminary report" from Ms. Zerrougui.

7. Mr. ALFONSO MARTINEZ, speaking on a point of order, said that the Sub-Commission could not call for a preliminary report without the go-ahead of the Commission and the Economic and Social Council.

8. Mr. JOINET said that, in his estimation, such go-ahead was not necessary if the preliminary report requested entailed no financial implications. That said, he did not object to the amendment suggested by Mr. Alfonso Martinez.

9. Draft decision E/CN.4/Sub.2/2001/L.4 was adopted.

Draft decision on the implementation in practice of the obligation to provide an effective domestic remedy (E/CN.4/Sub.2/2001/L.6)

10. Ms. HAMPSON explained that, given the need to maintain a certain balance between documents submitted directly to the Sub-Commission and those submitted to the sessional working group on the administration of justice, the sponsors of the draft had decided to withdraw it.

11. Draft decision E/CN.4/Sub.2/2001/L.6 was withdrawn.

Draft decision on the scope of the activities and the accountability of armed forces, United Nations civilian police and international civil servants taking part in peace support operations (E/CN.4/Sub.2/2001/L.7)

12. Ms. HAMPSON suggested the addition of the words "and taking into the account the document in the attached annex" after "extremely concerned at the allegations of serious violations of human rights on the part of personnel serving in peace support operations". The document in question, which had been distributed to members of the Sub-Commission, had been amended to make it clear that the phrase "peace support operations" covered "all operations of a peacekeeping or peace-enforcement nature under United Nations mandate". It should also be possible to make the same clarification in the title of the draft decision, using the same formula. Responding to the concerns of some members of the Sub-Commission, she explained that the idea was to review the scope of the activities and the accountability of those mentioned in the title of the draft decision, whether or not the operations under consideration were legitimate.

13. Mr. ALFONSO MARTINEZ said that he was prepared to join the consensus on the draft, since it had been clearly established that respect for the rules of humanitarian law, by the armed forces, the United Nations civilian police or international civil servants, would not in any way legitimize an operation which had been illegitimate from the very outset.

14. Mr. JOINET wondered whether experts should not also be mentioned, alongside armed forces, United Nation civilian police and international civil servants.

15. Ms. HAMPSON saw no problem with including Mr. Joinet's suggestion. Accordingly, she suggested that, both in the title and the eighth line of the draft decision, the words "United Nations civilian police and international civil servants" should be replaced by "United Nations civilian police, international civil servants and experts".

16. Ms. MOTOC, Mr. JOINET and Ms. ZERROUGUI said that they wished to join the sponsors of the draft.

17. Draft decision E/CN.4/Sub.2/2001/L.7 was adopted.

Draft decision under agenda item 4

Draft decision on promotion of the realization of the right to drinking water and sanitation (E/CN.4/Sub.2/2001/L.5)

18. Mr. GUISSÉ said that the draft decision had been sponsored by almost all members of the Sub-Commission. Nevertheless, to ensure smooth passage of the text in the Commission itself, he suggested the deletion of the words "including providing him with the assistance of a consultant specialized in this field" in operative paragraphs 7 and 8. That request could have financial implications and might cause concern to the Commission.

19. Ms. MOTOC noted that the Sub-Commission was submitting its third successive request to the Commission to approve a decision to appoint Mr. Guissé as Special Rapporteur to conduct a detailed study on the issue. She hoped that the Commission would finally give its agreement to that extremely important matter.

20. Draft decision E/CN.4/Sub.2/2001/L.5 was adopted.

PREVENTION OF DISCRIMINATION:

(a) RACISM, RACIAL DISCRIMINATION AND XENOPHOBIA

(b) PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES

(c) PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (agenda item 5) (continued)

(E/CN.4/Sub.2/2001/2, 15, 16, 18, 19, 20 and Add.1, 21 and 22; E/CN.4/Sub.2/2001/NGO/2 and 6; E/CN.4/Sub.2/AC.4/2001/4 and 5; E/CN.4/Sub.2/AC.5/2001/2 and 3; E/CN.4/Sub.2/AC.5/2001/WP.2-WP.4 and WP.6; E/CN.4/Sub.2/AC.5/2001/CRP.4; E/CN.4/2001/85)

21. Ms. YASSNI (Committee for the Reunification of Saharan Families (COREFASA)) said that the humanitarian assistance intended for Moroccan Saharawi populations detained by the Polisario Front in the Tindouf camps was being diverted. The leaders of that armed group were requesting aid from various humanitarian organizations, exaggerating the actual number of people living in the camps, in order to swell the amount of aid provided. Those donations, which could be recognized from the marks of the donor agencies, were being resold on local markets by the criminal network which the front had set up for that purpose. That traffic was doubly harmful, in that the populations for whom the donations were intended were receiving very

reduced quantities of rations and some humanitarian organizations, when they learned about the diversion of their aid, were revising the quantities and the manner in which it was provided, and even halting the provision of aid altogether.

22. She therefore requested the Sub-Commission to come to the assistance of the Saharan populations in the Tindouf camps, by endeavouring to ascertain who was benefiting from the diversion of humanitarian aid and to bring those persons to justice.

23. Mr. EIDE (Chair-Rapporteur of the Working Group on Minorities), presenting the report of the Working Group on Minorities on its seventh session, 14-18 May 2001 (E/CN.4/Sub.2/2001/22), said that Mr. Bengoa, Mr. Kartashkin, Mr. Sik Yuen and Mr. Sorabjee had taken part in its work. The Group's geographical composition had been more varied than in previous years, with a growing number of representatives from African, Asian and Latin American countries. In addition, representatives had linked their concerns more closely to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities than they had in the past and had therefore been able to make more constructive suggestions. He also welcomed the participation of numerous representatives of Governments, human rights mediators and members of national human rights commissions. Representatives of intergovernmental and regional organizations had also attended the session, including the Office of the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe (OSCE) and the African Commission on Human and People's Rights. A greater number of research institutes and minority groups had also been represented.

24. The Working Group's mandate was to review the implementation of the Declaration, in particular, at the national level, to consider solutions to various specific problems and to recommend appropriate measures. It had thus become a think-tank to assess the practical realization of the Declaration at national and international levels. The following issues had been considered: education (multicultural and intercultural); the right of minorities to learn and use their own language; the effective participation of minorities in decision-taking at national and regional levels; and the relationship between the different approaches - integrative and separatist - to the problems of minorities, a crucial issue on which there had been interesting discussions.

25. The need to recognize and take into account the interests of minorities in development activities had been one of the key issues in the discussions during the session, as well as in the parallel seminar in London, at the end of July 2001, organized by Minority Rights Group International and the Working Group. During that seminar, a number of recommendations had been adopted for consideration at the World Conference against Racism. The Working Group had also stated its readiness to visit the countries concerned, in which the minorities lived. After the World Conference, it would make a first visit to Mauritius, organized by Mr. Sik Yuen, to study the situation in that country, which served as an example of multiculturalism, and to draw lessons from it.

26. The Working Group had decided, working in collaboration with the Office of the High Commissioner for Human Rights, to prepare a practical guide for the promotion of the

rights of minorities, which would cover the Declaration and its Commentary. Pamphlets on various topics would be published, covering the way in which minority problems were addressed by the United Nations system and by regional organizations.

27. The project of setting up a database on minorities would be considered in 2002. The year 2002 marked the tenth anniversary of the Declaration and it had been proposed that the issue of the appointment by the Commission on Human Rights of a special rapporteur on minorities should be taken up at that time. In addition, States and non-governmental organizations should be consulted on the possibility of drafting a convention on the rights of minorities. Finally, he noted with appreciation the constructive atmosphere which had prevailed in the Working Group and the sharper focus and better organization of its work.

28. Mr. KAMAROTOS (Médecins du Monde), speaking on behalf of the RomEurope - Human Rights Coalition, which comprised Médecins du Monde International, the Save the Children Alliance, the International Federation of Human Rights Leagues, the International League against Racism and Anti-Semitism, the National Union of Social Institutions for Gypsies and the Gypsy Research Centre, said that health indicators showed a life expectancy for the Roma significantly below national averages and very high neonatal and infant mortality rates (19 per thousand and 23.5 per thousand, respectively, in France in 1996). The health of the Roma was directly affected by their deplorable living conditions in terms of lack of access to drinking water, poor hygiene, food shortages, inaccessibility of the labour market, frequent evictions, extreme poverty, low school attendance rates and lack of vocational training. Where the right to education was concerned, a study conducted by Save the Children had demonstrated a discrepancy between the provisions of national international law and actual practice, as far as access to education for Roma across Europe was concerned. Roma children were often segregated in separate classes and schools, offering a substandard education, with the result that employment options available to Roma were significantly worse than those for other young people. Allowing a state of affairs to continue where many Roma children had no other future prospects than insecure, marginal and low-paid employment would have dire social and economic consequences.

29. The situation of the Roma was particularly alarming in Romania, even though in April 2001 the Romanian Government had adopted a strategy, devised in collaboration with the European Union, for improving relations between the Roma and the authorities. The strategy appeared to have gone unheeded, however, and Roma had continued to be evicted in various districts in Bucharest and the district councils had refused to renew rental agreements. At the same time, all requests for an audience with the local authorities, as well as with the Prime Minister or the President, had remained unanswered. The situation was such that some Roma had been forced to emigrate.

30. He drew attention to the example in France of the eviction of 70 Romanian Roma from the land where they had been living and the destruction of their trailers. Since then those families had been living in appalling conditions and, although Médecins du Monde had alerted the prefectural and health authorities to the serious health risks incurred by those people, there had been no response.

31. Accordingly, the RomEurope - Human Rights Coalition requested the Sub-Commission to reiterate its request to the Commission on Human Rights to appoint a special rapporteur on minorities, so that a detailed study on the fundamental rights of the Roma could be carried out by Mr. Sik Yuen.

32. Mr. MUHAMMAD (All for Reparations and Emancipation) said that African Americans recognized themselves as a people in their own right and a minority, even though slavery had caused them to lose their African identity, because of the interbreeding between the various African peoples transported to America and their white masters. For that reason, his organization recommended the establishment of a forum for the descendants of slaves throughout the world and a trust fund to finance its activities. It also recommended that the Sub-Commission place the African American people on its agenda, as a people whose situation merited consideration, alongside that of indigenous peoples and minorities.

33. Mr. KARTASHKIN said that the quality of the work performed by the Working Group on Minorities grew better from one session to the next. Each member had prepared several documents on issues relating to minorities and the Chair-Rapporteur had performed a remarkable task in coordinating the work of the Group, which had borne fruit in a number of conclusions and recommendations listed at the end of its report.

34. Mr. MAQBOOL KAZMI (Himalayan Research and Cultural Foundation) commended the Chair-Rapporteur of the Working Group on Minorities on having clarified the scope of minority rights, in particular, with regard to the right to self-determination. The Chair-Rapporteur had pointed out that the rights of persons belonging to minorities were individual rights and that groups could not cite the Declaration on the Rights of Minorities in support of the right to self-determination. Another issue relevant to the exercise of minority rights was the process of affirmative action by States. Generally speaking, affirmative action must be temporary and non-discriminatory, given that, as was the case in India, peoples who were minorities in one region could form the majority in another.

35. Introducing himself as a practising Muslim from the Indian State of Jammu and Kashmir, he said that, as editor-in-chief of the local Urdu newspaper Tafkeen for more than three decades and convenor of the Jammu and Kashmir Minorities Forum, he was well acquainted with the problems of minorities in that region. The Indian Constitution guaranteed the equality of all before the law and conferred on all the right to profess, practise and propagate their religion. The Indian Government had also set up institutions like the Minority Commission, which protected the rights of minorities. Regrettably, the lack of such institutions in Jammu and Kashmir had rendered the situation of minorities very difficult in that region.

36. Jammu and Kashmir was a multilingual, multi-religious and multiethnic state, in which numerous minorities - Muslims, Shiites, Buddhists, Sikhs, Kashmiri Pandits, Hindus, etc. - lived under a constant threat of armed attacks by Islamic extremists and terrorists sponsored by a hostile neighbour. Over the last 12 years those attacks had forced the entire Kashmiri Pandit community, numbering some 500,000, to take refuge in various other parts of India. Other minority groups, like the Shia Muslims and Hindu Dogras, had suffered similar attacks in the

frontier regions. The massacre of 36 Kashmiri Sikhs was still fresh in the memory, while a further 6 Sikhs had been killed in February 2001. Although all those communities made up almost 60 per cent of the population of Jammu and Kashmir, they lived in a state of total insecurity because of the threat posed by those armed religious extremists.

37. In conclusion, he urged the Sub-Commission and the Working Group to give their attention to the activities of those groups which, in the name of jihad, were terrorizing small ethnic, religious and linguistic groups in the State of Jammu and Kashmir.

38. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples (MRAP)) said that he failed to understand why discrimination on the grounds of occupation and ancestry did not fall under the definition of racism. That type of discrimination conformed precisely with the definition of anti-Semitism as it had been manifested over the course of history until the last 100 years and it was hard to imagine that anti-Semitism was not a form of racism.

39. Stressing that the concept of "minority" was not a self-contained notion and that the issue of minorities should be considered case by case, he reviewed three cases about which MRAP was particularly concerned: recognition of Kurdish identity in those countries where members of that minority lived; self-determination of the Saharans; and recognition of the Palestinian people by the Israeli State.

40. Turkey was the country with the largest Kurdish population and it was in Turkey where, over at least 50 years, they had suffered the worst repression. Insofar as a large number of Kurds from Turkey were emigrating to countries of the European Union, where they were very active on social and political fronts, the European Union might be able to facilitate a solution by granting that group the status of a minority nationality, with the appropriate cultural and political rights. Some tentative steps had been made in that direction in Belgium, France and Germany, but much more could be done and parties like HADEP could be officially recognized. That would encourage Ankara to release the representatives of HADEP and to lift the state of emergency. In the context of Europe, from both historical and geographical points of view, a national minority was analogous to a nation without a State.

41. The situation regarding Western Sahara was rather less clear. Security Council resolution 1359 (2001), adopted on 29 June 2001, made reference, at least formally, both to the plan for a self-determination referendum and to the idea of a framework agreement, to which the parties involved could agree. It was difficult, however, to reconcile those two approaches, one of self-determination and one which boiled down to granting minority status in the territory to the majority of its population. Proposing the status of national minority to the Saharans was not proposing peace.

42. Finally, the most worrying of the three issues was the abiding problem of Palestine. There were legitimate grounds to wonder whether there was any political purpose behind the policies pursued by the Israeli Government, since no purpose could be served by making things worse. In that context, the horrific attack which had just been perpetrated in Jerusalem did not in any way change the critical analysis by MRAP of Israeli policies. At the end of the day, the formula "Two peoples, two States" meant nothing if there was only one State. Furthermore, as

the Jewish State rejected the idea of a secular State, it could only tolerate the Palestinian Arabs by assigning them to an ethnic minority. Being an ethnic minority in their own country would create a situation even worse than the current one. It was important that the Israeli policies moving in that direction should cease, before that scenario became reality. The Sub-Commission should mobilize its experience and its clear vision to ensure that the United Nations was able to take effective action. It was essential to infuse new thinking and come up with realistic proposals in the immediate term, to avert a much worse outcome in the region.

43. Mr. GENIUSAS (International Federation of Free Journalists) said that the consequences of the mass deportations of peoples carried out by Stalin continued to plague the Baltic countries - Estonia, Latvia and Lithuania - after half a century of Soviet occupation. Estonia and Latvia, in particular, continued to be targets of a deliberate misinformation campaign. Thus, on 29 June 2001, the Russian Minister for Foreign Affairs stated in Pravda, with reference to Estonia, that one third of the country's population had no citizenship and was confined to the sidelines of social and political life. Such allegations were inconsistent with the facts and had been denied both by the United Nations and other international observers.

44. In Latvia and Estonia, citizenship did not depend on ethnic origin, but was freely chosen. Each ethnic minority had the right to retain its own national identity, to receive education in its mother tongue and to promote its own culture. To become an Estonian citizen, a person had to know the Estonian language and constitution, be a legal resident of the country for five years and take an oath of allegiance to the Republic of Estonia.

45. Russian-medium education was provided in both public and private schools at all levels, up to higher education. Some 28 per cent of Estonian schoolchildren attended Russian-language schools; in institutions of higher education, that figure was 12 per cent.

46. Latvia had always been a multi-ethnic society, but its natural demographic balance had been upset by deportations of entire families, whose place had been taken by Russian-speaking colonists. Victims of discrimination in all fields, the Latvians had been rapidly reduced to the status of a national minority in their own major towns, including the capital.

47. In Lithuania, Russians formed the main ethnic minority, constituting some 9 per cent of the population and enjoying free State-financed schooling in their native language.

48. Unfortunately, the situation of the Lithuanian minority in the Russian Federation was radically different. There were some 78,000 Lithuanians in Russia, 20,000 living in the enclave of Kaliningrad, but they had only one State-financed school in Moscow and six other classes in schools situated in three towns of the Kaliningrad enclave.

49. Denying a national minority the possibility of education in its own language contravened the relevant provisions of the United Nations. The fate of the Lithuanian minority was no exception, as the situation of other national, ethnic, racial and religious minorities in the Russian Federation amply demonstrated. A case in point was the extermination of the Chechen people, which continued 10 years after the recognition of the independent State of Chechnya in accordance with the USSR Constitution in force at that time. According to a report on Chechnya published in June 2001, hundreds of thousands of Chechens had been killed, wounded or turned

into refugees in other countries; those who had survived had been the victims of crimes against humanity. Chechen refugees in Ingushetia and elsewhere suffered from malnutrition and various diseases. According to the same report, the Russian Ministry of Health had itself admitted that 80 per cent of the Chechen population needed immediate health care.

50. Mr. LITTMAN (World Union for Progressive Judaism) drew attention to the case of 21 Iranians - 13 Jews and 8 Muslims - who had been accused of spying for Israel. The show trial of the targeted Jews had been widely covered by the media, but there had been no trial or questioning of the Muslims. With regard to that travesty of a trial, which was being held in Shiraz, he recalled his comments at the previous session of the Commission on Human Rights about the same matter, involving a "religious minority". In particular he had asked the Ambassador of the Islamic Republic of Iran whether the testimony of a non-Muslim had any validity in a trial held in an Islamic court under Shariah law. A negative answer to that question would signify that the Shiraz trial was unjust and the United Nations should therefore take action to ensure that all citizens were thenceforth treated equally under international human rights norms, and without religious discrimination. Unless there was a reply from the Iranian delegation to the Sub-Commission at its current session, the only possible conclusion was that Shariah law applied on the same footing to Muslims and non-Muslims alike, which contravened the international human rights covenants to which the Islamic Republic of Iran was a party.

51. With regard to the 1990 Cairo Declaration of Human Rights in Islam, which was neither a "regional" instrument nor a United Nations "international" instrument, he noted that the declaration itself was subject to Islamic Shariah. It was therefore surprising that the Sub-Commission cited the declaration in its resolution 1998/17 on the situation of women in Afghanistan.

52. With regard to the World Conference against Racism and the issue of "mass and flagrant violations of human rights which constitute crimes against humanity and which took place during the colonial period, wars of conquest and slavery", he pointed out that the definition was still too restricted and should include the jihad wars on three continents, and not only during the colonial period.

53. Ms. MOTOC said that the Working Group on Minorities had made considerable progress in considering minority issues and a constructive contribution to the search for solutions to their problems: it could now stand as a model for the Working Group on Indigenous Populations, of which she was a member. Among recent initiatives by the Working Group on Minorities, she was particularly in favour of the recommendation to nominate a special rapporteur on minorities. She had been slightly disappointed by the resolution adopted by the Commission to the effect that the Sub-Commission should not continue its work on the Roma. If that issue was considered too political for the Sub-Commission, perhaps it should be taken up by the Commission itself, since it was a matter of considerable importance in both Eastern and Western Europe. Finally, she welcomed the idea of setting up a United Nations trust fund for indigenous populations, which would enable cash-strapped non-governmental organizations to attend the Working Group's meetings.

54. Mr. NAQSHBANDI (Liberation) said that Liberation represented a number of minority groups campaigning against discrimination in all parts of the world, ranging from asylum-seekers in Western Europe to all those deprived of access to justice. He wished to draw the Sub-Commission's attention to certain specific issues.

55. With reference to the Chagos islands, he recalled that, in the late 1960s, the British and United States Governments had concluded an agreement to turn the island of Diego Garcia into an American military base. The islanders had been removed to Mauritius. They claimed the right of return but that right still had not been granted.

56. With regard to the Kurdish people, who had experienced enormous suffering, Liberation called specifically for the recognition of the language and identity of that people.

57. The Dalits in India currently counted among the most marginalized and persecuted groups. The phenomenon of untouchability, a stigma borne by the entire community, was a manifestation of extreme discrimination totally at odds with international human rights standards. Liberation encouraged delegations to the World Conference against Racism and participating Governments to continue their discussion of that issue and challenged the international community to recognize the inherent racism in the caste system, which was a sort of "hidden apartheid".

58. The Australian Aborigines, in common with many indigenous peoples, suffered from the loss of their land and had legal difficulties in asserting their indigenous status. Their social and economic level was very low compared to the rest of the population, as manifested in their high unemployment rates, low educational level and poor health status.

59. As for the naturalized Koreans living in Japan, there was an urgent need to address the continuing discrimination against that community. Forcibly deprived of their real Korean names, their language and their culture, Koreans living in Japan found it extremely difficult to express their own sense of identity in a country which had sought to make them second-class citizens.

60. Liberation urged the international community to address the issue of discrimination in all its forms. It looked forward to the World Conference against Racism and hoped that the issues that it had highlighted would not be sidelined but, rather, would encourage thoughtful debate and a willingness to change policies and practices that sought to discriminate against indigenous peoples and minorities.

61. Mr. TESFAYE (International Movement for Fraternal Union among Races and Peoples) drew attention to the situation of minorities in Ethiopia, a country with a large number of indigenous groups and minorities, representing more than 80 linguistic groups. It was also a country where minorities had suffered particularly severe violations.

62. Although the Ethiopian Constitution enshrined the right of those communities to conduct their own affairs and to use their vernacular languages, the Government had completely ignored

that right. Thus, members of those minorities were forced to study in languages that were not their own and any opposition to that policy was brutally suppressed. People were detained without due process. Some were even tortured and killed.

63. As everyone knew, Ethiopia was a very poor country, owing partly to natural causes but mainly to the mismanagement of the country's economy over the past 30 years or so. Poverty in the country was so widespread that many children were being abandoned by their families, no longer able to feed them. Estimates put the number of street children at over 100,000, with thousands more engaged in prostitution. Unable to solve the problem, the Government had recently fastened on a particularly inhuman way of getting around it. The police would round up those children, some of whom were as young as 12, drive them out of the capital and abandon them in the forest, ordering them never to return. Those who had been able to make it back to Addis Ababa had told the Ethiopian Human Rights Council what had happened. That incident had not been an isolated event and, while the private press had reported it extensively, the Government had preferred to keep silent. The very few human rights defenders who dared report such inhuman acts were imprisoned and tortured.

64. Three years previously, his organization had reported to the Sub-Commission that Ethiopia was a large prison. The situation had not improved and he was therefore requesting the Sub-Commission to appoint a special rapporteur to investigate the heinous human rights violations in Ethiopia, particularly against minorities.

65. Mr. GHULAM QADIR (World Muslim Congress) deplored the phenomenon, widespread in many parts of the world, of Islamophobia. One example was the Former Yugoslav Republic of Macedonia, where the refusal by the country's Slavs to recognize the equal rights of the Albanian minority was leading the country to catastrophe. To save the country, the laws must be amended to ensure that all its citizens were treated on an equal footing and that the Albanian minority was granted an equitable place in national life.

66. The Chechen minority in Russia was another example. Chechen villages were ruthlessly destroyed and the male Chechen population subjected to systematic humiliation.

67. In India, Muslims were the victims of intolerance and surrounded by ever-present suspicion. In many parts of the country, Muslims felt as if they lived under siege. Recently, many mosques had been destroyed by Hindus and temples hastily thrown up in their place. When Hindu gangs attacked Muslims, the police - whose role was to protect the victims - joined ranks with the rioters.

68. In general terms, the popular press and the electronic media were fomenting a climate hostile to Islam by using words like "Islamic fundamentalism", "Islamic terrorism", etc. Even if use of those words was protected by freedom of expression, the fact remained that their constant use created prejudices and hostility among those who heard or read them.

69. Mr. MAJID TRAMBOO (International Human Rights Association of American Minorities) drew attention to the situation in Jammu and Kashmir and the tragic fate of its people, which he attributed to the division of its territory and its continued occupation by India. The Indian Government had sent 700,000 soldiers to crush the Kashmiri people's struggle for

freedom and justice, a campaign which the Indian Government was attempting to pass off to the international community as a terrorist and fundamentalist movement. In that context, he recalled the massacre of 36 Sikh villagers by unidentified gunmen in the south of Kashmir. That incident had been described by an Indian journalist, who suggested that the massacre could well have been organized by Indian intelligence agencies in order to influence Mr. Clinton, visiting India at that time.

70. In view of the weight of evidence in support of that theory, he requested that an investigation should be carried out by a team of international non-governmental organization representatives and that pressure be put on the Indian Government to allow such an independent investigation to take place. Alternatively, he requested the Sub-Commission to direct the Working Group on Minorities to dispatch a fact-finding team to investigate the incidents.

71. He concluded by reiterating that the Kashmiri people were neither terrorists nor fundamentalists and that their struggle for national independence was an effort to preserve their culture and their peaceful and tolerant way of life.

72. Ms. AYNUR-GUNES (International Education Development) drew the attention of the international community to the tragic situation of the Kurdish people, numbering 35-40 million people in four different countries, a forgotten people, which had no status within the United Nations. The Turkish Kurds were one of the largest indigenous populations of the Middle East, numbering 20 million. That population was oppressed by the Turkish Government, which maintained its discriminatory policies against them, and their human rights were flouted. The Kurds living in Turkey had no cultural rights, their existence and their identity were not recognized and their language was prohibited. She wondered, therefore, why the legal instruments set in place by the United Nations were not valid for the Kurds. For the past 15 years, a state of emergency had been in force in the regions where most of the Kurds lived and those regions were entirely subjugated to military authority. The constitutional laws which applied in the west of Turkey were not respected in those regions. That, surely, was an example of discriminatory practices. Furthermore, during the war between the Turkish State and forces of the Kurdistan Workers Party (PKK), more than 4,000 Kurdish settlements had been destroyed, leading to the migration of millions of Kurds. She insisted on the need for the existence of the Kurdish people to be respected and their right to determine their own destiny acknowledged.

73. Mr. EIDE expressed appreciation for the remarks made by his colleagues and by representatives of non-governmental organizations. A number of the latter had reported on particular situations in certain countries and he encouraged them to take the floor in the Working Group on Minorities, insofar as their comments related to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. He said that the Working Group was equally open to minorities which were not officially recognized in their own country. Like the Human Rights Committee, the Working Group on Minorities followed the principle that the existence of a minority was a question of fact and not of recognition.

74. He welcomed the suggestion by Mr. Kartashkin regarding the strengthened participation in the Working Group of members of the Sub-Commission and other specialists. A complete list

of the working papers and meeting documents which had been submitted was attached to the report. In that context, there had been discussion of the best means of disseminating those documents, including by creating web pages on the web site of the Office of the High Commissioner for Human Rights.

75. The issue of self-determination should be approached in a different context than that of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The fact that the Working Group was not the appropriate framework for a debate on the independence of States did not, however, mean that the issue was not relevant to international law. It was not up to the Working Group to authorize or proscribe any aspiration for independence. Self-determination could, moreover, come in different forms, such as decentralization, restoration of authority or local autonomy. It was those different modalities that the Working Group on Minorities would have to discuss. The main problem was that there was no other international forum set up to consider that vital issue.

76. He welcomed the participation during the current session of a large number of representatives of African American populations from different parts of the American continent and stressed that the report had, for the first time, given prominence to issues relating to such populations. Those issues would be examined in greater depth during one or two seminars to be held with the participation of the Working Group on Minorities. The Working Group was encouraged in its endeavours by the strengthened participation by specialists in its work.

77. Mr. Ogurtsov, Vice-Chair, took the Chair.

78. Ms. DAES said that she had been very honoured to be able to take part in a number of meetings of the Working Group on Minorities. She expressed her deep appreciation and gratitude to the Chair-Rapporteur and to all members of the Working Group. She had been impressed by the quality of its work and the scientific analysis that had been made of a number of issues, including that of autonomy in international law, which had become a very complicated matter in the contemporary world. She also welcomed the cooperation of a number of universities.

79. She supported all the recommendations in the report and, in particular, the possibility to recommend the appointment of a special representative on minorities. She was concerned, however, by the fact that one European State had adopted a statute granting specific rights - economic, social and cultural - to persons of the same ethnic origin living in a neighbouring country. That law could be seen as introducing extraterritorial measures capable of having a discriminatory effect on minorities living in neighbouring countries. She urged the Working Group on Minorities to examine that law in a constructive manner and to submit its views on the issue to the Sub-Commission on Human Rights at its next session. Finally, in the interests of balance, she recommended that, in its reports, the Working Group on Minorities take into account the views not only of representatives of minorities who had addressed communications to their Governments, but also those of government observers.

80. Mr. WEISSBRODT, presenting his preliminary report on the rights of non-citizens and its addendum (E/CN.4/Sub.2/2001/20 and Add.1), said that the documents in question built on the working paper and informal follow-up document (E/CN.4/Sub.2/1999/7 and Add.1) that he had submitted in 2000 and which, in their turn, had arisen from a study by Baroness Elles.

81. The preliminary report examined the concluding observations of the Committee on the Elimination of Racial Discrimination. It then reviewed other international standards, including relevant interpretations by various United Nations treaty bodies. After that it considered the provisions of various regional human rights instruments. The report also examined particular issues relating to the rights of non-citizens, such as distinctions among different categories of non-citizens. Finally, it offered conclusions and recommendations and suggested new areas which required further study.

82. As a first stage, he had endeavoured to give a full picture of the principal international legal instruments applicable to the issue and had also looked at the relevant jurisprudence. As a second stage, careful consideration should be given to the interrelationship between several important factors, the different categories of non-citizens, the different categories of rights, the various levels of development in different countries and the reasons adduced to justify the granting of different rights to citizens and to non-citizens.

83. He hoped to gather more information about the actual situation facing non-citizens in various countries. To that end, he intended to send a note verbale to Governments, intergovernmental organizations, including regional organizations, and non-governmental organizations. It might be useful to give Governments an opportunity to supply whatever information that they wished to contribute and to comment on the legislation and interpretations that he had already collected.

84. He hoped that the preliminary report would be particularly useful to the Committee on the Elimination of Racial Discrimination and to other United Nations and regional human rights mechanisms, as well as to the international community as a whole, by examining the current trend of making distinctions among different categories of non-citizens. He also hoped that the report would contribute to the deliberations of the World Conference against Racism.

85. One key goal of the study was to create a standard by which to ensure that any distinctions were legitimate and did not constitute discrimination. It could also be suggested to the Committee on the Elimination of Racial Discrimination that it withdraw its somewhat outdated general recommendation XI (1993) and prepare a general recommendation in the narrative form taking into account new developments in the field.

86. In conclusion, he reiterated his concern that continued discriminatory practices against non-citizens demonstrated the absence of effective standards regarding the rights of individuals who were not citizens of the country in which they lived. He believed that the study might be of particular use to the Office of the United Nations High Commissioner for Refugees (UNHCR). In addition, the emergence of supranational legal entities, such as the European Union or the North American Free Trade Agreement (NAFTA), highlighted the need to revisit the issue of the

rights of non-citizens. For that reason, the Sub-Commission on Human Rights, the Committee on the Elimination of Racial Discrimination and UNHCR should continue to cooperate closely with non-governmental organizations in examining and preparing further studies on the issue.

87. Mr. KARTASHKIN said that he had carefully followed the presentation of the report on the rights of non-citizens by Mr. Weissbrodt. Mr. Weissbrodt's reports were always of great interest because they were based on the most up-to-date information sources. He regretted, however, that the preliminary report was available only in English and wondered whether it would be translated into the other languages. In particular, he wondered precisely what was meant by the annotation "English only".

88. Mr. WEISSBRODT explained that he had submitted his preliminary report (E/CN.4/Sub.2/2001/20) at a very early stage, in early May 2001, to ensure that it would be translated into all languages, but only the English and Arabic versions were currently available. He believed that the report had been one of the first to be submitted for the current session of the Sub-Commission on Human Rights. The situation regarding the addendum (E/CN.4/Sub.2/2001/20/Add.1) was different, since, in view of its length, there were no plans to translate it and it was therefore available only in English. If Mr. Kartashkin wished to suggest that it should be translated, perhaps he might be able to convince the relevant officials in the United Nations of the need for such translation.

89. Mr. KARTASHKIN hoped that the reports could be translated into all the United Nations working languages. Mr. Weissbrodt's study would make it possible to harmonize decisions taken by different United Nations treaty bodies on one and the same issue. He supported Mr. Weissbrodt's method of providing full references, which enabled those who so wished to examine the issue more deeply. With regard, however, to the concluding observations of the Human Rights Committee on the Baltic countries, in particular, on Estonia, in paragraph 50, he pointed out that the situation in those countries was in a state of rapid flux and that information provided three or even five years previously no longer reflected reality. It was therefore important to ensure that reports reflected the current situation in the countries in question.

The meeting rose at 6.05 p.m.